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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Agriculture and Land Stewardship Department[21]

Replace Chapter 43

Inspections and Appeals Department[481]

Replace Chapter 71

CHAPTER 43
FERTILIZERS AND AGRICULTURAL LIME

[Appeared as Ch 9A, 1973 IDR]

[Prior to 7/27/88, see Agriculture Department 30—Ch 8]

21—43.1(200) Additional plant food elements besides N, P and K. Additional plant nutrients, besides nitrogen, phosphorus and potassium, when mentioned in any form or manner shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed shall be shown on the application for registration. The minimum percentages which will be accepted for registration except for those fertilizers designed to be applied and ordinarily applied directly to growing plant foliage to stimulate further growth are as follows:

<i>Element</i>	<i>Percent</i>
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulfur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

Guarantees or claims for the above-listed additional plant nutrients are the only ones which will be accepted. Proposed labels and directions for use of the fertilizer shall be furnished with the application for registration upon request. Any of the above-listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium. Warning or caution statements are required on the label for any product which contains 0.03 percent or more of boron in a water-soluble form or 0.001 percent or more of molybdenum.

21—43.2(200) Warning required. When any product which contains 0.03 percent or more of boron in a water-soluble form or 0.001 percent or more of molybdenum is incorporated in a commercial fertilizer a special warning tag or statement must be furnished to the purchaser. This tag or statement shall carry the word “WARNING” in letters at least one inch in height; it shall state the crops for which the fertilizer is to be used and it shall state that use of the fertilizer on any other than those recommended may result in serious injury to the crops. The tag or statement is to be attached to or printed on the bag or other container in which the fertilizer is sold; for bulk fertilizers the statement must be placed on the invoice or other document which shall accompany delivery and be supplied to the purchaser at the time of delivery as provided in Iowa Code section 200.6(2).

21—43.3(200) Specialty fertilizer labels. Specialty fertilizer products shall be labeled to show the following information, if not appearing on the face or display side in a readable and conspicuous form, shall occupy at least the upper third of a side of the container.

Net Weight
 Brand Name
 Grade
 Guaranteed Analysis:
 Total Nitrogen (N) _____ %
 _____ % Ammoniacal Nitrogen**
 _____ % Nitrate Nitrogen**
 _____ % Water Insoluble Nitrogen*
 Available Phosphorus (P) or P₂O₅ or both _____ %
 Soluble Potassium (K) or K₂O or both _____ %
 Additional Plant Nutrients, if claimed, and in the order and not less than the minimum percentage
 as shown in 21—43.1(200).
 **Potential Acidity or Basicity _____ % or _____ lbs.
 Calcium Carbonate Equivalent per ton.
 Name and Address of Registrant

NOTES:

*If claimed the statement “organic” or “slow acting nitrogen” is used on the label.

**If claimed or required.

21—43.4(200) Pesticides in fertilizers. When an insecticide, herbicide or any other additive for pest control is added to fertilizer the product must be registered and guaranteed with respect to the kind and percentage of each of these additives as well as with respect to plant food elements. In a prominent manner the label on the package shall state the crops for which the fertilizer is to be used and shall state that the use of the fertilizer on any other crops or under conditions other than those recommended may result in serious injury to crops.

This rule is intended to implement Iowa Code sections 200.7 and 200.11.

21—43.5(200) Cancellation or suspension of registration or license. If official sampling and analysis of any registered commercial fertilizer or soil conditioner indicates that the product does not meet the guarantees or claims made for it, or that the products do not meet the minimum plant nutrient values established by rule 21—43.1(200), the secretary may notify the person guaranteeing the product that the quality of the fertilizer or soil conditioner must be improved prior to any further sale, distribution or offer for sale of such products in Iowa and the secretary may request that monetary reimbursement be made to purchaser to rectify the deficiency of the product reported by laboratory analysis and the monetary reimbursement be reported to the department. Reimbursement must be made within 30 days of the reported deficiency. In addition, if it appears to the secretary that the composition of the article does not warrant the claims made for it, or if the article, its labeling or other material required by Iowa Code section 200.5(6) to be submitted to the secretary, do not comply with the requirements of the Iowa fertilizer law, the secretary may revoke, suspend or refuse to register any commercial fertilizer or soil conditioner; or refuse to issue or revoke or suspend any license issued under Iowa Code chapter 200.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.6(200) Standard for the storage and handling of anhydrous ammonia. The Compressed Gas Association’s (CGA’s) American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia (6th edition), commonly referred to as ANSI/CGA G-2.1 2014, is adopted by this reference as the official requirement for the storage and handling of anhydrous ammonia, with the following exceptions:

1. Strike subrule 3.1 in its entirety and insert in lieu thereof the following:

3.1 Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become

competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency.

2. Insert a new subrule 5.1.3 to read as follows:

5.1.3 Equipment and components must be installed, operated, and maintained in accordance with the manufacturer's recommendations or best engineering practices.

3. The following subrule 5.3.4 as set out in CGA G-2.1 2014, page 16, is included:

5.3.4 In the absence of a specific determination by local jurisdictions, separation distances for new, additional or relocated ammonia stationary storage containers and placements of containers covered by Sections 9, 10, 11 and 12 after January 1, 2002, shall be in accordance with Table 5:

Minimum Separation Distances for Location of Ammonia Storage Containers

Nominal Capacity of Container ₃ (Gallons or Cubic Meters)	Minimum Distances (in feet or meters) from Each Container to:			
	Mainline of Railroad ₄	Highway ₅ or Line of Adjoining Property which can be built upon	Place of Public Assembly ₆ or Residential Occupancy ₇	Institutional Occupancy ₈
Over 500 to 2,000 gals ₉	100 ft	25 ft	150 ft	250 ft
Over 2,000 to 30,000 gals	100 ft	50 ft	300 ft	500 ft
Over 30,000 to 100,000 gals	100 ft	50 ft	450 ft	750 ft
Over 100,000 gals	100 ft	50 ft	600 ft	1000 ft
Over 2 to 8 m ³	30 m	8 m	45 m	75 m
Over 8 to 110 m ³	30 m	15 m	90 m	150 m
Over 110 to 400 m ³	30 m	15 m	140 m	230 m
Over 400 m ³	30 m	15 m	180 m	300 m

1) Separation distances referred to are approximate and based on experience with minor releases.

2) For additional distances, see 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6 and 6.4.6.

3) The nominal capacity of multiple containers shall be aggregated, but only if containers are interconnected and safeguards do not exist to prevent a leak from one container from emptying interconnected containers.

4) Class II track or better. See 49 CFR 213.9 [8].

5) A highway is defined as a public way for purposes of vehicular travel, including the entire area within the right of way. See American Association of State Highway and Transportation Officials (AASHTO) Transportation Glossary (1983) [37].

6) Public assembly occupancy is a premise or that portion of a premise where large numbers of people congregate and from which occupants cannot quickly vacate the space. Public assembly occupancies include, among others, auditoriums, ballrooms, classrooms, passenger depots, restaurants, and theatres. See ANSI/ASHRAE 15 [1].

7) Residential occupancy is a premise or that portion of a premise that provides the occupants with complete independent living facilities including permanent provisions for living, sleeping, eating, cooking, and sanitation. Residential occupancies include, among others, dormitories, hotels, multiunit apartments, and private residences. See ANSI/ASHRAE 15 [1].

8) Institutional occupancy is a premise or that portion of a premise from which, because they are disabled, debilitated, or confined, occupants cannot readily leave without the assistance of others. Institutional occupancies include, among others, hospitals, nursing homes, asylums, and spaces containing locked cells. See ANSI/ASHRAE 15 [1].

9) For 500 gallons (2m³) or less, see 5.3.1 and 5.3.3.

4. Strike subrule 5.3.6 in its entirety and insert in lieu thereof the following:

5.3.6 Areas within 10 feet (3 meters) of a storage container shall be maintained clear of dry grass and weeds and other combustible materials. Areas shall be kept clear of debris or any item that would interfere with emergency actions or evacuation as well as materials or objects not necessary for the operation of the storage system and components.

5. Strike subrule 5.6.6 in its entirety and insert in lieu thereof the following:

5.6.6 Adequate provisions shall be made to protect the storage system and components, including all exposed piping, from physical damage which could result from impact by moving machinery, automobiles or trucks, or any other equipment at the facility. See also 6.7.1.

6. Insert a new subrule 5.10.8.2 to read as follows:

5.10.8.2 For transfer of liquids from a container utilizing a remote transfer point, each liquid filling connection shall have a positive shut-off valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve. Vapor connections shall have a positive shut-off valve between the supply source and the intake side of the pump. The liquid line supplying this transfer from the pump shall have an emergency shut-off valve between the supply source and the intake side of the pump. The emergency shut-off valve shall remain closed when the plant is not in use.

NOTE: The internal back-pressure check valves or internal excess flow valves shall be installed in the facility piping prior to the positive shut-off valves. These valves shall be installed so that any break will occur on the side of the transfer hose. Protection from pull away while connected is the same as described in 5.10.8.1.

7. Add the following subrule 5.10.10:

5.10.10 Anhydrous ammonia shall be vented into an adequate supply of water. For this purpose, an adequate supply of water means ten gallons of water for each gallon of liquid ammonia or fraction thereof which is contained in the hose or vessel to be vented. The ammonia should be injected into the water as near the bottom of a vented water containing vessel as practical. If a hose is used to inject ammonia into water, the hose should be weighted or secured so that the end of the hose will remain near the bottom of the vessel. An approved sparging device is recommended. Any aqueous ammonia solution resulting from the venting process shall be disposed of safely and properly.

NOTE: Ammonia vapor may be flared off when appropriate equipment is used to not allow ammonia vapor to escape unchecked into the atmosphere. This section does not apply to venting of a coupling between transfer hose and nurse tank or applicator or venting of vapor through 85 percent bleeder valve when loading a nurse tank or applicator.

8. Add the following subrule 5.10.10.1:

5.10.10.1 Anhydrous ammonia shall not be vented into the air. Each transport truck unloading point at an anhydrous ammonia storage facility shall have a valve for venting purposes installed in the piping at or near the point where the piping and hose from the transport truck are connected. Anhydrous ammonia from any transport truck hose shall be vented into an adequate supply of water. For this purpose, an adequate supply of water means ten gallons of water for each gallon of liquid ammonia or fraction thereof which could be contained in the hose. The ammonia should be injected into the water as near the bottom of a vented water containing vessel as practical. If a hose is used to inject ammonia into water, the hose should be weighted or secured so that the end of the hose will remain near the bottom of the vessel. An approved sparging device is recommended. Any aqueous solution resulting from the venting process shall be disposed of safely and properly.

9. Add the following subrule 5.10.11:

5.10.11 All anhydrous ammonia storage locations shall have a permanent working platform installed at each nurse tank or applicator loading location. The working platform shall be designed to allow for connecting and disconnecting of transfer hoses without standing on equipment being loaded.

NOTE: This section does not apply to nurse tanks or applicators with a working surface designed for loading purposes.

10. Add the following subrule 6.3.1.1:

6.3.1.1 Containers designed with internal pressure relief systems are exempt from this requirement.

11. Strike subrule 9.7.3 in its entirety and insert in lieu thereof the following:

9.7.3 A cargo tank of 3,500 gallons or less water capacity may be unloaded into permanent storage locations meeting the requirements of 3.4.1 and 5.10.8 through 5.10.8.2 or into implements of husbandry meeting the requirements of Section 11. A cargo tank of greater than 3,500 gallons water capacity but not greater than 5,000 gallons water capacity may be unloaded at permanent storage locations meeting the requirements of 3.4 and 5.10.8 through 5.10.8.2 or into a portable application equipment container

which is capable of holding the entire load. A cargo tank of greater than 5,000 gallons water capacity may only be unloaded into a permanent storage location meeting the requirements of 3.4 and 5.10.8 through 5.10.8.2 and capable of holding the entire load.

12. Strike subrule 11.3.5 in its entirety and insert in lieu thereof the following:

11.3.5 All vapor and liquid connections, except pressure relief valves and those specifically exempt in 5.5.5 and 5.5.6, shall be equipped with approved excess flow valves or may be fitted with quick-closing internal valves, which shall remain closed except during operating periods.

1. All vapor and liquid connections shall be closed except during operation periods.

2. Shared piping where multiple containers are plumbed together shall be equipped with additional excess flow valves or back-pressure check valves or both to meet the requirements of 5.10.8.

3. Mechanical remote shut-off valves may be added or substituted for excess flow valves in the piping after the vapor and liquid connections as a means of controlling the flow.

13. Strike subrule 11.6.1 in its entirety and insert in lieu thereof the following:

11.6.1 Each person operating, repairing appurtenances of, or inspecting a nurse tank shall comply with the following requirements:

1. Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency; and

2. Any person making, breaking or testing any ammonia connection, transferring ammonia or performing maintenance or repair on an ammonia system under pressure shall wear chemical splash goggles and protective gloves impervious to ammonia. A full face shield may be worn over the goggles. However, a face shield shall not be worn as a substitute for a primary eye protection device (goggles).

14. Strike subrule 11.6.2 in its entirety and insert in lieu thereof the following:

11.6.2 Each nurse tank shall be equipped with the following safety equipment and features:

1. Each container shall have for first-aid purposes at least 5 gallons (20 liters) of clean water in a container designed to provide ready access to the water for flushing any area of the body contacted by ammonia; and

2. A legible decal listing first-aid procedures to follow for injuries caused by ammonia.

15. Strike subrule 12.3.3 in its entirety and insert in lieu thereof the following:

12.3.3 An excess flow valve is not required in the vapor connections, provided that the controlling orifice is not in excess of 0.4375 inches (11.1 mm) in diameter and the valve is a hand-operated (attached hand wheel or equivalent) shut-off valve. Bleed off of vapors may be done into water meeting requirements of 5.10.10 if vapor connections cannot be made to the supplying vessel when filling applicator tanks. Vapors may be vented into the ground in the field of application under proper field conditions.

16. Strike subrule 12.4.1 in its entirety and insert in lieu thereof the following:

12.4.1 Each person operating, repairing appurtenances of, or inspecting an applicator tank shall comply with the following requirements:

1. Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency; and

2. Any person making, breaking or testing any ammonia connection, transferring ammonia or performing maintenance or repair on an ammonia system under pressure shall wear chemical splash goggles and protective gloves impervious to ammonia. A full face shield may be worn over the goggles. However, a face shield shall not be worn as a substitute for a primary eye protection device (goggles).

This rule is intended to implement Iowa Code section 200.14.

[ARC 2059C, IAB 7/22/15, effective 1/1/16]

21—43.7(200) Groundwater protection fee.

43.7(1) There shall be paid by the licensee, as licensed under Iowa Code section 200.4, to the secretary for all commercial fertilizers and soil conditioners sold or distributed in this state, a groundwater protection fee of 75 cents per ton based on an 82 percent nitrogen solution. Other product formulations containing nitrogen shall pay a fee based on the percentage of actual nitrogen contained in the formulation with 82 percent nitrogen solution serving as the base. Product formulations containing less than 2 percent nitrogen shall be exempt from the payment of a groundwater protection fee. Payment of the groundwater protection fee by any licensee exempts all other persons, firms or corporations from the payment.

43.7(2) Every licensee and any person required to pay a groundwater protection fee under this chapter shall:

a. File not later than the last day of January and July of each year, on forms furnished by the secretary, a semiannual statement setting forth the number of net tons of commercial fertilizer or soil conditioners containing nitrogen which were distributed in this state during the preceding six-month period; and upon filing the statement shall pay the groundwater protection fee at the rate stated in subsection 1 of this rule, except that manufacturers of individual packages of fertilizer containing 25 pounds or less shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of net tons of fertilizer containing nitrogen distributed in this state in packages of 25 pounds or less during the preceding 12-month period; and upon filing the statement shall pay the groundwater protection fee at the rate stated in subrule 43.7(1).

b. Reserved.

43.7(3) All licensees who distributed specialty fertilizer, as defined in Iowa Code section 200.3, paragraph 5, or apply specialty fertilizer for compensation, shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of tons of fertilizer containing nitrogen distributed in this state and listing the manufacturer from which the product was purchased but no groundwater protection fee shall be due.

This rule is intended to implement Iowa Code section 200.9.

21—43.8 to 43.19 Reserved.

21—43.20(201) Agricultural lime.

43.20(1) *Notification of production.* The manufacturer or producer of agricultural lime, limestone or aglime shall notify the secretary seven calendar days prior to the manufacture or production of agricultural lime, limestone, or aglime so that samples may be taken.

43.20(2) *Sample fee.* The manufacturer or producer of agricultural lime, limestone, or aglime shall pay a fee of no more than \$25 per sample collected. This fee may be adjusted by the secretary of agriculture by a separate notice letter to each manufacturer or producer to reflect as accurately as possible the actual cost of sampling and testing expended by the Iowa department of agriculture and land stewardship and Iowa State University for each sample taken at the manufacturer's or producer's facilities.

This rule is intended to implement Iowa Code sections 201.6 and 201.12.

21—43.21(200) Minimum requirements for registration of fertilizer and soil conditioners.

43.21(1) Fertilizer and soil conditioners submitted for registration may be required to be tested for a minimum of two growing seasons in at least three Iowa crop reporting districts in accordance with standards for efficacy testing. The results of testing shall be reviewed by the secretary's pesticide and fertilizer advisory committee. The testing requirement may be waived if research has been conducted with crops and under conditions relevant to the state of Iowa. The secretary's pesticide and fertilizer advisory committee may require the applicant for registration to submit an economic or environmental impact statement.

43.21(2) Applications for registration shall include methods of laboratory analysis of products used for achieving results consistent with the label guarantee.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.22(200) Provisional product registration. A provisional product registration may be granted during the time required to complete efficacy testing to achieve product registration. Prior to the growing seasons or granting of a provisional product registration, the registrant must submit a plan for efficacy testing to the department for approval by the first day of February. A fee of \$100 shall be collected for each provisional product registration. Annual reviews of provisional product registrations shall determine if satisfactory progress is being made toward achieving product registration. A provisional product registration may be canceled if it appears that conditions under which provisional product registration was granted have not been completed.

The registrant does not have the right to sell, distribute or promote any fertilizer or soil conditioner within the state of Iowa under a provisional product registration.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.23(200) Review of product registrations. Fertilizer and soil conditioner registrations may be reviewed to determine that the product meets claims for which registration was granted. If credible cause can be demonstrated that product claims have not been substantiated, registration may be canceled and a provisional registration may be issued until minimum requirements for registrations of fertilizers and soil conditioners again have been satisfied.

21—43.24(200) Product claims. Product claims may be substantiated by one of two methods: (1) efficacy testing; or (2) substantiation of data relevant to Iowa crops and soils. Efficacy testing and substantiation shall be completed when requested by the department to support claims made for fertilizer and soil conditioner that is sold, distributed or offered for sale in Iowa. Documentation substantiating product claims by efficacy testing shall contain the following information:

1. All guaranteed ingredients must be identified and indicated by percentage.
2. State the crop or soil response being measured.
3. The research facility and investigators conducting the trials.
4. Dates and locations of trials.
5. The trials must be conducted, utilizing the principles of experimental design and methods consistent with those in agricultural research. This involves raw data from proper treatment selection, replication and randomization in such a manner that statistical analysis of data is possible.
6. Exclude consumer testimonials.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.25 to 43.29 Reserved.

21—43.30(201A) Definitions. When used in this chapter:

“Agricultural liming material” means a product containing calcium and magnesium compounds capable of neutralizing soil acidity.

“Brand” means the term, designation, trade name, product name, or other specific designation under which individual agricultural liming material is offered for sale.

“Bulk” means in nonpackaged form.

“Calcium carbonate equivalent” means the acid-neutralizing capacity of an agricultural liming material expressed as percentage of pure calcium carbonate.

“Effective calcium carbonate equivalent (ECCE)” means the acid-neutralizing capacity of an agricultural liming material or specialty limestone.

“Fineness” means the percentage by weight of the material which will pass U.S. standard sieves of specified sizes.

“Industrial by-product” means agricultural liming material containing calcium or a combination of calcium with magnesium and capable of neutralizing soil acidity which is derived from any industrial waste or by-product.

“Label” means any written or printed material on or attached to the package or on the delivery ticket which accompanies bulk shipments.

“Limestone” means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

“Pelletized lime” means agricultural liming material containing calcium or a combination of calcium with magnesium and capable of neutralizing soil acidity which has been processed into pellet or granular form, with or without binding agents.

“Percent” or *“Percentage”* means by weight.

“Permanent production facilities” means stationary crushing and screening equipment which is immobile.

“Person” means individual, partnership, association, firm or corporation.

“Portable plant” means mobile crushing and screening equipment mounted on wheels.

“Quarry lime” means agricultural liming material containing calcium or a combination of calcium with magnesium which has been excavated from the earth and processed by crushing and screening and capable of neutralizing soil acidity.

“Specialty limestone” means agricultural liming material distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

“Ton” means a net weight of 2,000 pounds avoirdupois.

“Water treatment lime” means agricultural liming material containing calcium or a combination of calcium with magnesium and capable of neutralizing soil acidity which is derived from water treatment plants.

“Weight” means the weight of undried agricultural liming material or specialty limestone offered for sale.

21—43.31(201A) Determination of ECCE. Agricultural liming material or specialty limestone offered for sale, sold or otherwise distributed in this state shall be analyzed on the basis of the number of pounds of effective calcium carbonate equivalent per ton, using the method set forth in this rule.

43.31(1) A fineness factor shall be determined as follows:

- a. Multiply the percent of the total material passing the number 4 sieve by one-tenth.
- b. Multiply the percent of the total material passing the number 8 sieve by three-tenths.
- c. Multiply the percent of the total material passing the number 60 sieve by six-tenths. Add the results obtained from paragraph “a,” “b” and “c” of this subrule to obtain the fineness factor.

43.31(2) Multiply the fineness factor obtained by using the method in subrule 43.31(1) by the percent of calcium carbonate equivalent in the material to obtain the percent of ECCE.

43.31(3) The percent of ECCE obtained in subrule 43.31(2) shall be reduced by the percent of moisture contained in the sample.

43.31(4) Multiply 2,000 pounds by the percent ECCE obtained in subrule 43.31(3) to determine the number of pounds of ECCE per ton of agricultural liming material or specialty limestone.

21—43.32(201A) Sample procedure.

43.32(1) Samples of agricultural liming material for analyzing the number of pounds of ECCE shall be obtained by taking samples from the manufacturer’s production belt or stockpile. Samples shall be taken at locations where there are permanent production facilities once each calendar month during the months that agricultural liming material is being produced. Samples shall be taken at locations where there are no permanent production facilities once during the first week that a portable plant is at the location producing agricultural liming material and once each week during the period that the portable plant is at the location until a total of five representative samples have been accumulated and submitted for analysis, after which a sample shall be obtained and tested once each calendar month during the months

in which agricultural liming material is being produced. The manufacturer or producer of agricultural liming material shall notify the secretary of agriculture or person or persons appointed by the secretary of the production of agricultural liming material seven calendar days prior to the manufacture or production of agricultural liming material so that samples may be obtained by a person or persons appointed by the secretary in compliance with this rule.

43.32(2) Samples of specialty limestone for analyzing the number of pounds of ECCE shall be submitted to the secretary of agriculture by the manufacturer or producer of specialty limestone for analysis in accordance with rule 21—43.33(201A).

43.32(3) Samples of agricultural liming material may be obtained from manufacturers' or producers' production belts, stockpiles or in transportation and analyzed for compliance with certification requirements of rule 21—43.35(201A). Samples of specialty limestone may be obtained from packages and analyzed for compliance with certification requirements of rule 21—43.35(201A).

43.32(4) Samples of water treatment plant lime for analyzing the number of pounds of ECCE shall be obtained by taking samples from the water plant designated sampling point. Samples shall be taken once each month during the months when agricultural liming material is being taken off-site for land application. The producer of the agricultural liming material shall notify the secretary of agriculture or person(s) appointed by the secretary about the intent to land apply the liming material seven calendar days prior to the land application of agricultural liming material so that samples may be obtained in compliance with this rule.

21—43.33(201A) Sample analysis. Samples of agricultural liming material or specialty limestone obtained as provided in rule 21—43.32(201A) shall be submitted to the Soil Testing Laboratory, Iowa State University of Science and Technology, for analysis of acid neutralization capacity expressed as calcium carbonate equivalent, percentage of material passing a 4-, 8- and 60-mesh sieve and the percentage of moisture contained in the sample. The results of the analysis of each sample shall be submitted to the secretary of agriculture.

21—43.34(201A) Sample fee. The manufacturer or producer of agricultural liming material or specialty limestone shall pay a fee of no more than \$25 per sample collected. This fee may be adjusted by the secretary of agriculture by a separate notice letter to each manufacturer or producer to reflect as accurately as possible the actual cost of sampling and testing expended by the Iowa department of agriculture and land stewardship and Iowa State University of Science and Technology for each sample collected.

21—43.35(201A) Certification.

43.35(1) The secretary of agriculture shall, upon receipt of the analysis provided in rule 21—43.33(201A), certify the number of pounds of ECCE, using the method provided in rule 21—43.31(201A). The certification shall be forwarded to the manufacturer or producer from whom the sample was obtained by written notice and sent by United States mail.

Each certification of ECCE shall be based on the average of a maximum of five analyses from five samples. Each new analysis received shall be added to the previous five analyses and the oldest analysis shall be omitted. Fewer than five analyses shall be averaged on the basis of the actual number of analyses. Nothing in this rule shall preclude a manufacturer or producer from having a certification on separate stockpiles of agricultural liming material provided that each stockpile shall be separated from any other stockpile and each separate stockpile has been sampled and certified as required.

43.35(2) All agricultural liming material or specialty limestone offered for sale, sold or otherwise distributed shall be offered for sale, sold or distributed by the pound of ECCE. Any person who offers for sale, sells or distributes agricultural liming material or specialty limestone shall affix or cause to be affixed to every bill of lading, scale ticket, delivery receipt or other instrument of sale or package the certification of the secretary of agriculture of the number of pounds of ECCE per ton in the agricultural liming material or specialty limestone.

The certification shall be in the following form: Iowa Secretary of Agriculture Certified _____ pounds ECCE per ton. The pounds of ECCE certified by the secretary of agriculture for the agricultural liming material or specialty limestone shall be inserted in the space provided.

43.35(3) Agricultural liming material which has been further processed, subsequent to certification, as provided in rule 21—43.31(201A), including but not limited to decreasing or increasing moisture content, shall have the certification adjusted accordingly. Within 48 hours from the time of delivery, the adjusted certification shall be provided to the ultimate consumer of the agricultural liming material in writing together with the certification as provided in subrule 43.35(2) and shall accurately reflect the ECCE of the agricultural liming material.

43.35(4) All agricultural liming material and specialty limestone certifications shall expire on January 1, three years after being issued, provided no samples have been obtained and analyzed.

21—43.36(201A) Compliance with certification. If official sampling and analysis of agricultural liming material or specialty limestone in accordance with subrule 43.32(3) and rule 21—43.33(201A) indicates that the agricultural liming material or specialty limestone does not meet a minimum of 90 percent of the certification as provided in rule 21—43.35(201A), the secretary shall notify the manufacturer or producer of the agricultural liming material or specialty limestone that the certification must be corrected prior to any further sale, distribution or offer for sale of the agricultural liming material or specialty limestone in Iowa. The secretary may request that monetary reimbursement be made to the purchaser to rectify the deficiency of the agricultural liming material or specialty limestone and that the monetary reimbursement be reported to the department. Reimbursement must be made within 30 days of the reported deficiency.

21—43.37(201A) Labeling. Agricultural liming material shall not be offered for sale, sold or otherwise distributed in this state unless a label accompanies the agricultural liming material which provides the identification of the type of agricultural liming material in accordance with rule 21—43.30(201A).

21—43.38(201A) Toxic materials prohibited. It shall be unlawful for any manufacturer or producer of agricultural liming material or specialty limestone to sell, distribute or offer for sale any agricultural liming material or specialty limestone which contains toxic materials in quantities injurious to plant, animal, human or aquatic life or which causes soil or water contamination. The secretary may require additional laboratory analysis be conducted and results submitted to the department by the manufacturer or producer of agricultural liming material or specialty limestone to determine that the product does not contain an injurious quantity of toxic materials.

21—43.39(201A) Added materials. It shall be unlawful to sell, distribute or offer for sale any agricultural liming material or specialty limestone which contains other added materials unless the added materials are registered and guaranteed as provided in Iowa Code section 200.5(1), except binding materials used in the production of pelletized lime as defined in rule 21—43.30(201A).

21—43.40(201A) Egg shells. The following shall apply to any agricultural liming material that consists primarily of egg shells:

1. With the exception of paragraph “2,” the material shall be stored in a structure that prevents precipitation from contacting the stored material.

2. The material may be stored in a manner not meeting the requirements of paragraph “1” for a period of not more than 14 days in the field where the material will be land-applied.

These rules are intended to implement Iowa Code chapters 200, 201, and 201A.

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CHAPTER 71
SUBACUTE MENTAL HEALTH CARE FACILITIES

481—71.1(135G) Purpose—subacute mental health services. Subacute mental health services are intended to be short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.2(135G) Definitions. For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 135G.1 are adopted by reference in the rules.

“Administrator” means an individual who administers, manages, supervises, and is in general administrative charge of a subacute care facility, whether or not such individual has an ownership interest in the facility and whether or not the functions and duties are shared with one or more individuals.

“Assessment” means the evaluation of a person in psychiatric crisis in order to ascertain the person’s current and previous level of functioning, psychiatric and medical history, potential for dangerousness, current psychiatric and medical condition factors contributing to the crisis and support systems that are available.

“Distinct part” means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

“Incident” means an unusual occurrence within a facility or on its premises affecting residents, visitors, or employees whether or not there is apparent injury or where hidden injury may have occurred.

“Medication” means any drug including over-the-counter substances ordered and administered under the direction of a physician, physician assistant or advanced registered nurse practitioner.

“Peer support” means services that are provided by individuals in recovery from serious mental illness and delivered to others who also have mental illness.

“Responsible party” means the person who signs or cosigns the admission agreement required in rule 481—71.13(135G) or the resident’s guardian or conservator if one has been appointed. In the event that a resident does not have a guardian, conservator or other person signing the admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“Restraint” means the application of physical force, use of a chemical agent, or a mechanical device for the purpose of restraining the free movement of an individual’s body to protect the individual or others from immediate harm. Restraint does not include briefly holding without undue force an individual to calm or comfort the individual or holding an individual’s hand to safely escort the individual from one area to another.

“Restricted means of egress” means an exit door alarm system for safety of the residents and the public.

“Seclusion” means the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.3(135G) Application for licensure.

71.3(1) Initial application and licensing. In order to obtain an initial license for a subacute care facility, the applicant must meet all the requirements of the rules, regulations, and standards contained in Iowa Code chapter 135G and in this chapter and must make application at least 30 days prior to the proposed licensure date of the subacute care facility on forms provided by the department. The applicant must:

- a. Submit a résumé of care with a narrative which includes the following information:
 - (1) The purpose of the facility.
 - (2) A description of the target population and limitations on resident eligibility.

(3) Identification and description of the services the facility will provide, which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services, including staff, physical facilities and funds.

(4) A description of the human services system available in the area including, but not limited to, social, public health, visiting nurse, vocational training, and employment services, residential living arrangements, and services of private agencies.

(5) A description of working relationships with human services agencies when applicable, which shall include at a minimum:

1. A description of how the facility will coordinate with human services agencies to facilitate continuity of care and coordination of services to residents; and

2. A description of how the facility will coordinate with human services agencies to identify unnecessary duplication of services and plan for development and coordination of needed services;

b. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, the designation of the use to which each room will be put, and window and door location;

c. Submit a photograph of the front and side elevation of the facility;

d. Submit the statutory fee for a subacute care facility license;

e. Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules.

71.3(2) *Conversion from an intermediate care facility for persons with mental illness.* An intermediate care facility for persons with mental illness may be converted to a subacute care facility pursuant to Iowa Code section 135G.4(2) if the facility:

a. Provides written notice to the department that the facility has employed a full-time psychiatrist and desires to make the conversion; and

b. Submits an application to the department.

71.3(3) *Renewal application or change of ownership.* In order to obtain a renewal or change of the subacute care facility license, the applicant must:

a. Submit to the department the completed application form 30 days prior to the annual license renewal or change of ownership date;

b. Submit the statutory license fee for a subacute care facility with the application for renewal or change of ownership;

c. Have an approved, current certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules and regulations; and

d. Submit appropriate changes in the résumé of care to reflect any changes in the resident care program or other services.

71.3(4) *Issuance of license.* Licenses are issued to the person or governmental unit with responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations. The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

71.3(5) *Department of human services approval.* Prior to issuance of the license, the department of human services must submit to the department written approval of the application based upon the process used by the department of human services to identify the best-qualified providers.

71.3(6) *Licensed beds limit.* The total number of publicly funded subacute care facility beds licensed under this chapter shall not exceed 75.

71.3(7) *Beds per facility.* A single facility shall not be licensed for more than 16 beds.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 2068C, IAB 7/22/15, effective 8/26/15]

481—71.4(135G) Licenses for distinct parts.

71.4(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, include specifically designated rooms within the facility, and provide separate categories of care and services.

71.4(2) The following requirements shall be met for a separate licensing of a distinct part:

- a.* The distinct part shall serve only residents who require the category of care and services immediately available to the residents within that part;
- b.* The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;
- c.* A distinct part must be operationally and financially feasible.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.5(135G) Variances.

71.5(1) Variances from these rules may be granted by the director of the department if, in addition to the requirements of 481—Chapter 6:

- a.* The need for a variance has been established consistent with the résumé of care or the resident's individual program plan; and
- b.* There is no danger to the health, safety, welfare, or rights of any resident.

71.5(2) The variance will apply only to a subacute care facility.

71.5(3) Variances shall be reviewed by the department at the time of each licensure survey to verify whether the facility is still eligible for the variance.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.6(135G) Provisional license.

71.6(1) *Provisional license procedure.* The department may issue a provisional license to a subacute care facility pursuant to Iowa Code section 135G.8. The procedure for issuance of a provisional license shall be as follows:

- a.* The department shall first issue to the facility a report which identifies the deficiency.
- b.* Within 10 working days after receipt of the report, the facility shall provide the department with a written plan of correction.
- c.* The department shall review the written plan of correction within 10 working days of receipt. The department may request additional information or revision to the plan, which shall be provided as requested.
- d.* After accepting the written plan of correction, the department shall then issue a provisional license to the facility, which shall not exceed one year in duration.

71.6(2) *Written plan of correction.* The written plan of correction shall contain:

- a.* How the facility will correct the deficient practice;
- b.* How the facility will act to protect residents;
- c.* The measures the facility will take or the systems it will alter to ensure that the deficient practice does not recur; and
- d.* The date when the plan of correction will be completed, not to exceed 30 days from the date of the department's report.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.7(135G) General requirements.

71.7(1) The license shall be displayed in the facility in a conspicuous place which is viewed by the public.

71.7(2) The license shall be valid only for the premises and person named on the license and is not transferable.

71.7(3) The posted license shall accurately reflect the current status of the subacute care facility's license.

71.7(4) A license shall expire one year after the date of issuance or as indicated on the license.

71.7(5) There shall be no more beds added than are stipulated on the license.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.8(135G) Required notifications to the department.

71.8(1) The department shall be notified:

- a. Thirty days in advance of any proposed change in the subacute care facility's functional operation or the addition or deletion of required services;
- b. Thirty days before any addition, alteration, or new construction is begun in the subacute care facility or on the premises;
- c. Thirty days in advance of any closure of the subacute care facility;
- d. Within two weeks of any change in administrator;
- e. Within 30 days of the date on which any change in the category of license is sought;
- f. Within 30 days of any proposed change in the résumé of care for the subacute care facility.

71.8(2) Prior to the purchase, transfer, assignment, or lease of a subacute care facility, the licensee shall:

- a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; and
- b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed.

71.8(3) Within 24 hours, or the next business day, by the most expeditious means available, the department shall be notified:

- a. Of any accident causing major injury. "Major injury" shall be defined as any injury which:
 - (1) Results in death; or
 - (2) Requires admission to a higher level of care for treatment, other than for observation; or
 - (3) Requires consultation with the attending physician, or designee of the physician, or advanced registered nurse practitioner who determines, in writing, on a form designated by the department, that an injury is a "major injury" based upon the circumstances of the accident, the previous functional ability of the resident, and the resident's prognosis;
- b. When a resident attempts suicide, regardless of injury;
- c. When damage to the facility is caused by a natural or other disaster;
- d. When a fire occurs in a facility and the fire requires the notification of emergency services, requires full or partial evacuation of the facility, or causes physical injury to a resident;
- e. When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.9(135G) Reports of dependent adult abuse. Reports of suspected dependent adult abuse shall be made to the department of human services.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.10(135G) Administrator.

71.10(1) Administrator required. Each subacute care facility shall have one person in charge who is duly approved by the department or acting in a provisional capacity in accordance with these rules.

71.10(2) Qualifications of an administrator. The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. In addition, the person shall meet at least one of the following conditions:

- a. Be a mental health professional, as defined in Iowa Code section 228.1(6), with at least one year of experience in an administrative capacity; or
- b. Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or
- c. Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field; or
- d. Be a licensed nursing home administrator.

71.10(3) Administrator—distinct part. If a subacute care facility is a distinct part of a licensed health care facility, the administrator of the facility as a whole may serve as the administrator of the subacute care facility.

71.10(4) *Provisional administrator.* A provisional administrator may be appointed on a temporary basis by the subacute care facility licensee to assume the administrative responsibilities of the facility for a period not to exceed 12 months when the facility has, through no fault of its own, lost its administrator and has not been able to replace the administrator, provided the department has been notified and has approved the provisional administrator prior to the date of the administrator's appointment. The provisional administrator must meet the requirements of subrule 71.10(2).

71.10(5) *Administrator—initial licensing of facility.* A facility applying for an initial license shall not have a provisional administrator.

71.10(6) *Duties of administrator.* An administrator shall:

- a. Be responsible for the implementation of procedures to support the policies established by the licensee;
- b. Select and direct competent personnel who provide services for the subacute care facility;
- c. Make a policies and procedures manual available to all staff;
- d. Be responsible for a monthly in-service educational program for all employees and maintain records of programs and participants;
- e. Make staff payroll records available for departmental review as needed;
- f. Furnish to the department within 30 days of the department's request statistical information concerning the operation of the facility.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.11(135G) Administration.

71.11(1) The licensee shall:

- a. Assume the responsibility for the overall operation of the subacute care facility;
- b. Be responsible for compliance with all applicable laws and with the rules of the department;
- c. Establish written policies, which shall be available for review, for the operation of the subacute care facility.

71.11(2) The policy and procedures shall include:

- a. Personnel;
- b. Admission;
- c. Evaluation services;
- d. Treatment and discharge plan;
- e. Crisis intervention, including restraint and seclusion;
- f. Involuntary discharge or transfer;
- g. Medication management;
- h. Records;
- i. Resident rights.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.12(135G) Personnel.

71.12(1) Staffing requirements. Availability of personnel must be sufficient to meet psychiatric and medical treatment needs of the residents served.

71.12(2) Staffing shall include at minimum:

- a. Twenty-four-hour-per-day, seven-day-per-week availability of on-call psychiatrist or advanced registered nurse practitioner with at least one year of experience in psychiatric care;
- b. Twenty-four-hour-per-day, seven-day-per-week availability of on-call registered nurse with at least two years of experience in psychiatric care or a registered nurse with a bachelor of science in nursing (BSN) and at least one year of experience in psychiatric care;
- c. A mental health professional as defined in Iowa Code section 228.1(6);
- d. Direct care staff with at least three years of experience in a mental health care setting; and
- e. Social service staff at the bachelor level with at least one year of experience in a mental health care setting.

71.12(3) Personnel policies and procedures shall include the following requirements:

- a. Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities, education, experience, or other requirements, and supervisory relationships.
- b. Annual performance evaluations of all employees and consultants which are dated and signed by the employee or consultant and the supervisor.
- c. Personnel records which are current, accurate, complete, and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which the employee or consultant was hired.
- d. Roles, responsibilities, and limitations of student interns and volunteers.
- e. An orientation program for all newly hired employees and consultants that includes an introduction to the facility's personnel policies and procedures and a discussion of the facility's safety plan.
- f. Equal opportunity and affirmative action employment practices.
- g. Procedures to be used when disciplining an employee.
- h. Appropriate dress and personal hygiene for staff.
- i. An overview of recovery principles, person-centered planning and residents' rights.

71.12(4) The facility shall require regular health examinations for all personnel prior to employment and regular examinations thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee, including screening and testing for tuberculosis as described in 481—Chapter 59.

- a. No person shall be allowed to provide services in a facility if the person has a disease:
 - (1) Which is transmissible through required workplace contact;
 - (2) Which presents a significant risk of infecting others;
 - (3) Which presents a substantial possibility of harming others; and
 - (4) For which no reasonable accommodation can eliminate the risk.
- b. There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted.
- c. Health certificates for all employees shall be available for review by the department.

71.12(5) Personnel record.

- a. A personnel record shall be kept for each employee.
- b. The record shall include the employee's:
 - (1) Name and address,
 - (2) Social security number,
 - (3) Date of birth,
 - (4) Date of employment,
 - (5) References,
 - (6) Position in the facility,
 - (7) Job description,
 - (8) Documentation of experience and education,
 - (9) Staff development plan,
 - (10) Annual performance evaluation,
 - (11) Documentation of disciplinary action,
 - (12) Date and reason for discharge or resignation,
 - (13) Current physical examination.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.13(135G) Admission, transfer, and discharge.

71.13(1) *General admission policies.*

- a. A subacute care facility shall not admit or retain a resident who is in need of greater services than the facility can provide.
- b. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the individual's needs.

c. A subacute care facility shall admit only as many residents as indicated by the number of beds for which the facility is licensed.

d. A subacute care facility shall adopt policies regarding the admission requirements outlined in subrule 71.13(2).

71.13(2) Admission requirements.

a. Eligibility for individualized subacute mental health services will be determined by the standardized preadmission screening utilized by the facility, which shall be conducted by a mental health professional, as defined in Iowa Code section 228.1(6).

b. In order to be admitted, the individual must:

- (1) Be 18 years or older;
- (2) During the past year, have had a diagnosable mental, behavioral or emotional disorder that meets the diagnostic criteria specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM);
- (3) Demonstrate a high degree of impairment through significantly impaired mental, social, or educational functioning arising from the psychiatric condition or serious emotional disturbance;
- (4) Demonstrate an impairment that severely limits the skills necessary to maintain an adequate level of functioning outside a treatment program and requires active treatment to obtain an adequate level of functioning;
- (5) Demonstrate a low level of stability through any two of the following conditions:
 1. The individual presents moderate to high risk of danger to self or others.
 2. The individual lacks adequate skills or social support to address mental health symptoms.
 3. The individual is medically stable but requires observation and care for stabilization of a mental health condition or impairment.

71.13(3) Admission agreement. A subacute care facility shall provide an admission agreement to each resident upon admission to the facility. Each admission agreement shall include:

- a. Method of payment;
- b. Schedule of services and any additional fees;
- c. The facility's policies regarding length of stay, discharge and transfer.

71.13(4) Exclusion criteria.

- a. A subacute care facility shall not admit an individual into the facility if:
 - (1) The individual manifests behavioral or psychiatric symptoms that require acute care;
 - (2) The individual can be safely maintained and effectively treated with less intensive services in a community setting; or
 - (3) The symptoms of the individual do not meet admission criteria in subrule 71.13(2).
- b. An individual's lack of adequate place of residence, placement, or housing is not reason to receive subacute mental health services.

71.13(5) Continued stay criteria policies. By the tenth day following admission and every ten calendar days thereafter, the mental health professional shall conduct and document an assessment of the resident and determine if:

- a. The severity of the behavioral and emotional symptoms continues to require the subacute level of intervention and the DSM diagnosis remains the principal diagnosis.
- b. The prescribed interventions remain consistent with the intended treatment plan outcomes.
- c. There is documented evidence of active, individualized discharge planning.
- d. There is a reasonable likelihood of substantial benefit in the resident's mental health condition as a result of active intervention of the 24-hour supervised program.
- e. Symptoms and behaviors that required admission are continuing.
- f. A less intensive level of care would be insufficient to stabilize the resident's condition.
- g. New issues that meet the admission guidelines in subrule 71.13(2) have appeared.
- h. The resident requires further stabilization subsequent to acute care to treat active mental health symptoms such as psychosis, depression or mood disorder.

71.13(6) Discharge criteria policies. A resident may be discharged from subacute level of care if:

- a. The resident's treatment plan goals and objectives for subacute services have been met and a discharge plan to outpatient or other community-based services is in place.
- b. The resident's physical condition necessitates transfer to a more intensive level of care.
- c. The resident is not making progress toward treatment goals and there is no reasonable expectation of progress at the subacute level of care.
- d. The resident becomes a danger to self, others, or facility structure and requires an emergency transfer to a higher level of care.
- e. The resident repeatedly refuses to participate in the resident's treatment plan.

71.13(7) Discharge or transfer.

- a. The facility shall give prior notification to the resident, as well as the resident's next of kin, legal representative, attending physician or advanced registered nurse practitioner, and sponsoring agency, if any, prior to transfer or discharge of any resident.
- b. The subacute care facility shall make proper arrangements for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative.
- c. The facility shall make advance notification to the receiving facility prior to the transfer of any resident if the resident is to be transferred to another facility. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being transferred.
- d. The appropriate record as set forth in subrule 71.18(1) shall accompany the resident when the resident is transferred or discharged.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 2068C, IAB 7/22/15, effective 8/26/15]

481—71.14(135G) Treatment plan.

71.14(1) A treatment plan must be developed with each resident. The plan must be based on initial and ongoing assessment of need, be designed to resolve the acute or crisis mental health symptoms or the imminent risk of acute or crisis mental health symptoms, and be completed within six hours of admission.

71.14(2) The treatment plan must be documented in the resident's record and must include the following:

- a. The resident's name.
- b. The date the plan is developed.
- c. Standardized diagnostic formulations, including but not limited to the current Diagnostic and Statistical Manual (DSM) or the current International Statistical Classification of Diseases and Related Health Problems (ICD).
- d. Problems and strengths of the resident that are to be addressed.
- e. Observable and measurable individual objectives that relate to the specific problems identified.
- f. Interventions that address specific objectives, identification of staff responsible for interventions, and planned frequency of interventions.
- g. Signatures of mental health professionals responsible for developing the plan, including the qualified prescriber.
- h. Signatures of the resident and any parent, guardian, conservator, or legal custodian. Reasons for refusal to sign or inability to participate in treatment plan development must be documented.
- i. A projected discharge date and anticipated postdischarge needs, including documentation of resources needed in the community.
- j. Review of the treatment plan by the appropriate treatment staff at least daily and upon completion of the stated goals or objectives and documentation of the following:
 - (1) Progress toward each treatment objective, with revisions as indicated; and
 - (2) Status of discharge plans, including availability of resources needed by the resident in the community, with revisions as indicated.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.15(135G) Crisis intervention.

71.15(1) There shall be written policies and procedures concerning crisis intervention. These policies and procedures shall be:

- a.* Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches;
- b.* Available in each program area and living unit;
- c.* Available to individuals and their families; and
- d.* Developed with the participation, as appropriate, of individuals served.

71.15(2) An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior and to the individual's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history, including any history of physical or sexual abuse.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.16(135G) Seclusion and restraint.

71.16(1) Pursuant to Iowa Code section 135G.3(2), a subacute care facility utilizing a seclusion room must meet the conditions of 42 CFR § 483.364(b). Use of the seclusion room shall be approved by a licensed psychiatrist or by order of the resident's physician, a physician assistant, or an advanced registered nurse practitioner.

71.16(2) There shall be written policies that define the use of restraint, designate the staff member who may authorize its use, and establish a mechanism for monitoring and controlling its use.

71.16(3) Restraint shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. Restraint shall only be used:

- a.* In an emergency to prevent injury to the resident or to others; or
- b.* For crisis intervention.

71.16(4) Restraint must not result in harm or injury to the resident and must be used only to ensure the safety of the resident or others during an emergency situation until the emergency situation has ceased, even if the restraint order has not expired.

71.16(5) The use of restraint should be selected only when other less restrictive measures have been found to be ineffective to protect the resident or others. The staff shall demonstrate effective treatment approaches and alternatives to the use of restraint.

71.16(6) Standing or as-needed orders for restraint are prohibited.

71.16(7) Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident.

71.16(8) Staff trained in the use of emergency safety interventions must be physically present and continually assessing and monitoring the well-being of the resident and the safe use of restraint throughout the duration of the emergency situation.

71.16(9) Orders for restraint or seclusion must be by a physician or other licensed practitioner permitted by law to order restraint or seclusion.

a. Verbal orders must be received while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends and must be verified in writing in the resident's record by the physician or other licensed practitioner permitted by law to order restraint or seclusion.

b. Once the one-time order for the specific resident in an emergency safety situation has expired, it may not be renewed on a planned, anticipated, or as-needed basis.

71.16(10) Staff must document in the resident's record and in a centralized tracking system any use of restraint or seclusion.

71.16(11) As soon as reasonably possible after the restraint or seclusion of a resident has terminated, staff must meet to process the restraint or seclusion occurrence and document in writing the meeting.

71.16(12) A resident who requires restraint or seclusion on multiple occasions should be considered for a higher level of care.

71.16(13) The facility shall provide to the staff training by qualified professionals on physical restraint and seclusion theory and techniques.

a. The facility shall keep a record of the training, including attendance, for review by the department.

b. Only staff who have documented training in physical restraint and seclusion theory and techniques shall be authorized to assist with seclusion or physical restraint of a resident.

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.17(135G) Medication management.

71.17(1) Medications must be ordered by qualified prescribers and administered by qualified personnel.

71.17(2) Prescription medication must be legally dispensed and labeled according to state law.

71.17(3) All medication errors, drug reactions and suspected drug overmedication must be documented and reported to the practitioner who prescribed the medication.

71.17(4) All medications and other preparations intended for internal or external human use must be stored in medicine cabinets or drug rooms. When preservation of the medication or other preparation requires refrigeration, the facility must provide a means of securely refrigerating these items. Such cabinets or drug rooms must be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized person.

71.17(5) Schedule II drugs must be stored within two separately locked compartments at all times and accessible only to qualified personnel in charge of administering medication.

71.17(6) Any unused portions of program-prescribed medication(s) must be either turned over to the resident with written authorization and directions by the qualified prescriber or returned to a pharmacy for proper disposition by the pharmacist.

71.17(7) Whenever a resident brings the resident's own prescribed medications into the facility, such medications must not be administered unless identified and ordered by a qualified prescriber. If such medications cannot be administered, they must be packaged, sealed, and returned to an adult member of the resident's immediate family or the legal guardian or securely stored and returned to the resident upon discharge. However, if previously prescribed medication would prove harmful to the resident, the medication may be withheld from the resident and disposed of in accordance with subrule 71.17(6). There must be documentation by the qualified prescriber in the resident's clinical record citing the dangers or contraindications of the medication being withheld.

71.17(8) All potent, poisonous, or caustic materials shall be stored separately from medications. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet or storeroom and made accessible only to authorized personnel.

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481—71.18(135G) Records.

71.18(1) *Resident record.* The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. The record shall include:

- a.* Name and previous address of resident;
- b.* Birth date, sex, and marital status of resident;
- c.* Provisional or admitting diagnosis;
- d.* A biopsychosocial history sufficient to provide data on the resident's relevant past history, present situation, social support system, community resource contacts, and other information relevant to appropriate treatment and discharge planning;
- e.* The name, telephone number and address of the licensed mental health professional completing the biopsychosocial history;
- f.* Name, address and telephone number of next of kin or legal representative;
- g.* Name, address and telephone number of the person to be notified in case of emergency;
- h.* Pharmacy name, telephone number, and address;
- i.* Written orders for treatment and medications, signed by a physician, physician assistant or advanced registered nurse practitioner;

- j.* Any change in the resident's condition;
- k.* Notations describing the resident's condition on admission, transfer, and discharge;
- l.* A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer;
- m.* Individualized treatment and discharge or transfer plan pursuant to rule 481—71.14(135G);
- n.* Progress notes, including any use of seclusion or restraint pursuant to rule 481—71.16(135G), recorded by the physician, physician assistant, advanced registered nurse practitioner or mental health professional and, when appropriate, others significantly involved in active treatment modalities. Progress notes must contain a concise assessment of the resident's progress and recommendations for revising the treatment plan as indicated by the resident's condition;
- o.* The discharge summary, including a recapitulation of the resident's hospitalization, recommendations for appropriate services concerning follow-up, and a brief summary of the resident's condition on discharge.

71.18(2) Confidentiality of resident records. The facility shall have policies and procedures providing that each resident shall be assured confidential treatment of all information, including information contained in electronic records.

a. The facility shall limit access to any resident records to staff and consultants providing professional services to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. This restriction shall not preclude access by representatives of state or federal regulatory agencies.

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician, physician assistant, advanced registered nurse practitioner or mental health professional determines the disclosure of the record or a section thereof is contraindicated, in which case the designated information will be redacted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record.

71.18(3) Incident records.

a. Each subacute care facility shall maintain an incident record report and shall have available incident report forms.

b. A report of every unusual occurrence shall be detailed on the printed incident report form.

c. The person in charge at the time of the unusual occurrence shall oversee the preparation of and sign the incident report.

d. A copy of the incident report shall be kept on file in the facility and shall be available for review and a part of administrative records.

71.18(4) Retention of records.

a. Records shall be retained in the facility for five years following termination of services to the resident, even when there is a change of ownership.

b. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician or advanced registered nurse practitioner.

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481—71.19(135G) Residents' rights in general.

71.19(1) Policies and procedures. Each facility shall ensure that policies and procedures are written and implemented, include all of the following subrules, and govern all areas of service provided to staff and residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually by the facility.

71.19(2) Grievances. Written policies and procedures shall include a method for submission of grievances and recommendations by residents or their responsible parties and a method to ensure a response and disposition by the facility. The written grievance procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. The name of an employee or an alternate staff person designated to be responsible for handling grievances and recommendations; and

b. Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action.

71.19(3) *Informed of rights and responsibilities.* Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission.

a. The facility shall inform residents about what they may expect from the facility and its staff and what is expected from residents.

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are hearing impaired, steps shall be taken to translate the information into the person's native language or sign language. In the case of visually impaired residents, either Braille or a recording shall be provided.

c. A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record. A copy of the signed statement shall be given to the resident or legal guardian.

71.19(4) *Informed of health condition.* Each resident or legal guardian shall be fully informed by a physician, physician assistant, advanced registered nurse practitioner or mental health professional of the resident's health and medical condition unless medically contraindicated as documented by a physician, physician assistant, advanced registered nurse practitioner or mental health professional in the resident's record.

71.19(5) *Posting of names.* The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated to provide to residents another course of redress.

71.19(6) *Dignity preserved.* Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs.

a. Corporal punishment, verbal abuse, or any other activity that would be damaging to an individual's self-respect shall be prohibited by written policy.

b. Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program.

c. Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of the individuality and dignity of human beings.

d. Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated.

e. Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This requirement does not apply under emergency conditions.

71.19(7) *Communications.* Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the treatment plan, which requires explicit approval of the resident or legal guardian.

71.19(8) *Visiting hours.* Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted.

a. Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- (1) The resident refuses to see the visitor(s).
 - (2) The visit would not be in accordance with the treatment plan.
 - (3) The visitor's behavior is unreasonably disruptive to the functioning of the facility.
- b. Reasons for denial of visitation shall be documented in the resident's records.

71.19(9) Privacy. Space shall be provided for residents to receive visitors in comfort and privacy.

71.19(10) Telephone calls. Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone.

71.19(11) Mail. Arrangements shall be made to provide assistance to residents who require help in reading or sending mail.

71.19(12) Permission to leave premises. Residents shall be permitted to leave the facility and environs at reasonable times if permitted in writing by the physician, physician assistant, advanced registered nurse practitioner, mental health professional, or administrator.

71.19(13) Resident activities. Each resident may participate in recreational activities as desired unless contraindicated for reasons documented in the resident's record.

71.19(14) Resident property. Each resident may retain and use personal clothing and possessions, as space permits, and cash and other financial instruments, provided that the use of such items is not otherwise prohibited.

a. The personal property shall be kept in a secure location which is convenient to the resident.

b. Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry.

c. Any personal clothing or possessions retained by the facility for the resident shall be identified and recorded on admission and the record placed on the resident's chart. The facility shall be responsible for secure storage of items, and the items shall be returned to the resident promptly upon request or upon discharge from the facility.

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481—71.20(135G) Health and safety.

71.20(1) Emergency care. Each facility shall have written policies and procedures for emergency medical and psychiatric care, which shall include immediate notification by the person in charge to the physician, physician assistant, advanced registered nurse practitioner or mental health professional of any accident, injury or adverse change in the resident's condition. "Immediate" for purposes of this subrule means within 24 hours.

71.20(2) First-aid kit. A first-aid emergency kit shall be available on each floor.

71.20(3) Infection control. Each facility shall have a written and implemented infection control program.

71.20(4) Safe environment. The licensee of a subacute care facility is responsible for the provision and maintenance of a safe environment for residents and personnel. The subacute care facility shall meet the fire and safety rules as promulgated by the state fire marshal.

71.20(5) Disaster. The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency.

a. The plan shall be posted.

b. Training shall be provided to ensure that all employees are knowledgeable of the emergency plan. The training shall be documented.

71.20(6) Smoking. A subacute care facility shall follow the smokefree air Act, Iowa Code chapter 142D.

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These rules are intended to implement Iowa Code chapter 135G.

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